



FILED

10-03-07

02:21 PM

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking into the Review
of the California High Cost Fund B Program.

R.06-06-028

**REPLY COMMENTS OF SUREWEST TELEPHONE (U 1015 C)
ON ASSIGNED COMMISSIONER'S RULING
RELATED TO CALIFORNIA ADVANCED SERVICES FUND**

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October 3, 2007

1 **I. INTRODUCTION.**

2 SureWest Telephone ("SureWest") provides the following reply comments on the
3 Assigned Commissioner's Ruling Related to The California Advanced Services Fund ("CASF")
4 herein dated September 12, 2007 ("ACR").

5 Numerous parties who submitted Opening Comments expressed general support for the
6 CASF, but many of them raised potentially troublesome issues concerning the proposed CASF
7 and suggested caution and careful consideration of the legal basis for the CASF as the
8 Commission moves forward. SureWest agrees with those comments and will continue to work
9 with the Commission to determine the appropriate mechanisms to bring greater broadband
10 availability throughout California.

11

12 **II. THE COMMENTING PARTIES AGREE THAT THE COMMISSION SHOULD**
13 **WORK TO STRENGTHEN THE LEGAL UNDERPINNINGS OF THE CASF.**

14 All of the parties who commented agreed that the Commission should insure that the
15 proposed CASF has strong legal underpinnings. TURN devotes all of its Opening Comments to
16 that subject. DRA states that under the present circumstances, "...it appears that only a court
17 challenge would resolve, with any degree of certainty or confidence, the legal viability of a CASF
18 program under the Commission's existing authority." (DRA Opening Comments, pp. 2 - 3). See
19 also Sprint Nextel Opening Comments, pp. 5 - 13; Opening Comments of T-Mobile, pp. 2 - 3;
20 Opening Comments of the California Cable and Telecommunications Association and Time
21 Warner Telecom of California, pp. 3 - 4; Opening Comments of Small LECS, pp. 2 - 3. While
22 AT&T does not mention working with the Legislature in its Opening Comments, it points out
23 possible legal infirmities in the proposal. (AT&T Opening Comments, pp. 3 - 5). On this issue,
24 Verizon incorporates comments to that effect previously filed on the subject. (Verizon Opening
25 Comments, p. 2). SureWest submits that based upon these consistent comments expressed by a
26 diverse group of parties, the Commission should work with the Legislature to strengthen the legal
27 underpinnings of the CASF.

28

1 **III. IMPORTANT DETAILS CONCERNING THE CASF SHOULD BE RESOLVED**
2 **ONLY AFTER THE BROADBAND TASK FORCE HAS RELEASED ITS**
3 **REPORT.**

4 Several parties raise important issues concerning the manner in which the CASF is to be
5 structured. These important details include whether it will be limited to "unserved areas" or may
6 include "underserved areas" as provided for in the ACR. They also include whether the CASF
7 should support speeds less than 3 MBPS, or above 3 MBPS as provided for in the ACR. (AT&T
8 Opening Comments, p. 10; Verizon Opening Comments, p. 10). Other issues raised include the
9 size of the CASF, a matching funds requirement and a 60 day "window" for competing
10 applications. These are, indeed, important issues. SureWest believes that due to their importance
11 and number of such issues, the Commission should wait for the report of the Broadband Task
12 Force before pursuing the CASF. That report should materially assist the Commission in
13 developing a CASF.

14 **IV. NO NEUTRAL BOARD IS REQUIRED TO ADMINISTER THE CASF.**

15 At page 22 of its Opening Comments, Sprint Nextel recommends that a "neutral board of
16 third parties...to evaluate the applications and to advise the Commission on the appropriate parties
17 and areas and most efficient technologies to be selected for CASF funding." This
18 recommendation is misguided for at least two significant reasons. First, the Commission is
19 neutral, so third parties (which presumably would not all be neutral) would add nothing to the
20 process in terms of neutrality, and might inject many biases and non-neutral agendas into the
21 process. Second, the presence of third parties with disclosed or undisclosed biases and individual
22 agendas may create gridlock which will delay CASF funding for projects. Accordingly, this
23 recommendation should be rejected.

24
25 **V. CONCLUSION.**

26 Based on all the comments received, SureWest believes the Commission should wait and
27 review the recommendations to come out of the Broadband Task Force and work with the
28 Legislature to provide the legal basis to establish the CASF before the Commission moves

1 forward in developing the CASF.

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3 Dated this 3rd day of October, 2007, at San Francisco, California.

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1 **CERTIFICATE OF SERVICE BY MAIL**

2 I, Martin Spence, declare:

3 I am a resident of the State of California, over the age of eighteen years, and not a party to
4 the within action. My business address is COOPER, WHITE & COOPER LLP, 201 California
5 Street, 17th Floor, San Francisco, CA 94111.

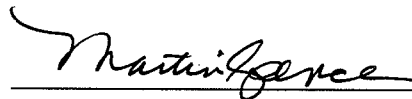
6 On October 3, 2007, I served a true copy of the:

7
8 **REPLY COMMENTS OF**
9 **SUREWEST TELEPHONE (U 1015 C)**
10 **ON ASSIGNED COMMISSIONER'S RULING**
11 **RELATED TO CALIFORNIA ADVANCED SERVICES FUND**

12 by placing a true and correct copy thereof with the firm's mailing room personnel, for mailing in
13 accordance with the firm's ordinary practices, to the parties on the CPUC's service list for this
14 proceeding. A true and correct copy was also e-mailed to those parties on the attached CPUC
15 service list who provided an e-mail address.

16 I declare under penalty of perjury that the foregoing is true and correct.

17 Executed on October 3, 2007, at San Francisco, California.

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